
Judiciary Committee

HB 2629

Title: An act relating to creating sentencing enhancements for the crimes of driving under the influence and physical control of a vehicle while under the influence.

Brief Description: Creating sentencing enhancements for driving under the influence and physical control of a vehicle while under the influence.

Sponsors: Representatives Campbell, Williams, Nixon, Lantz, Rodne and Simpson.

Brief Summary of Bill

- Requires the court, when sentencing an offender convicted of DUI, to impose additional penalties if the offender committed certain traffic infractions or offenses at the time he or she was arrested for DUI.

Hearing Date: 1/24/06

Staff: Trudes Tango (786-7384).

Background:

DUI Laws

Drunk driving (DUI) is a gross misdemeanor. The maximum confinement sentence for a gross misdemeanor is one year in jail. The DUI law contains a complex system of mandatory minimum penalties that escalate based on the number of prior offenses and the concentration of alcohol (BAC) in the offender's blood or breath. The minimum penalties are as follows:

First offense:

- *BAC under 0.15 or no BAC for reasons other than refusal-* one day in jail or 15 days of electronic monitoring; \$350 fine; 90 days license loss.
- *BAC of 0.15 or higher or person refused BAC-* two days in jail or 30 days of electronic monitoring; \$500 fine; one year license loss or two years if refused BAC.

One prior offense within seven years:

- *BAC under 0.15 or no BAC for reasons other than refusal-* 30 days in jail and 60 days of electronic monitoring; \$500 fine; two years license loss.
- *BAC of 0.15 or more or person refused BAC -* 45 days in jail and 90 days of electronic monitoring; \$750 fine; 900 days license loss or three years if refused BAC.

Two or more prior offenses within seven years:

- *BAC under 0.15 or no BAC for reasons other than refusal* - 90 days in jail and 120 days of electronic monitoring; \$1000 fine; three years license loss.
- *BAC of 0.15 or more or person refused BAC* - 120 days in jail and 150 days of electronic monitoring; \$1500 fine; 4 years license loss.

"Prior offenses" include convictions for: (a) DUI; (b) vehicular homicide and vehicular assault if either was committed while under the influence; (c) negligent driving after having consumed alcohol ("wet neg"), reckless driving, and reckless endangerment if the original charge was DUI; and (d) an equivalent local DUI ordinance or out-of-state DUI law. In addition, a deferred prosecution for DUI or "wet neg" counts as a prior offense even if the charges are dropped after successful completion of the deferred prosecution program.

In addition to the mandatory minimums set forth above, a DUI offender is subject to other sanctions, including alcohol assessment, the mandatory use of an ignition interlock system on any vehicle the offender drives, and probation.

Sentence Enhancements

In a variety of circumstances, the legislature has created sentencing enhancements based on certain factors. For example, a person convicted of driving while license suspended gets an increased minimum sentence if the person also committed DUI. Other examples of sentence enhancements include if a firearm or weapon was used in the commission of a crime and, for certain drug offenses, if the crime occurred within 1000 feet of a school.

Generally, the additional penalties are mandatory and must be served consecutively to the underlying sentence. Any fact that increases the penalty for a crime beyond the prescribed statutory maximum, other than the fact of a prior conviction, must be proved beyond a reasonable doubt.

Summary of Bill:

Sentencing enhancements are created for the crime of DUI. The court must increase the offender's sentence if, at the time the offender was arrested for DUI, he or she also committed certain traffic infractions or offenses.

For each traffic infraction or offense committed, the court must impose five additional days of imprisonment and an additional \$250 fine, and order the department of licensing to suspend, revoke, or deny the offender's driving privileges an additional 30 days. The sentencing enhancements must be served consecutively to any other sentence and may not be waived, reduced, suspended, or deferred. There must be a special allegation pleaded and proven beyond a reasonable doubt that the offender committed the offense or infraction.

The traffic infractions and offenses that increase an offender's sentence are: (a) driving without a license; (b) failure to provide proof of motor vehicle insurance; (c) driving without a required ignition interlock device; (d) circumventing an ignition interlock device; (e) reckless driving; (f) exceeding the speed limit; (g) speeding in a school zone; (h) reckless endangerment of roadway workers; (i) racing of vehicles on highways; (j) failure to obey traffic control devices; (k) open container violation; (l) failure to stop; (m) failure to yield; (n) improper lane change or travel; (o) passing stopped school bus; (p) impeding traffic; (q) failure to signal or improper signal; (r) operating with obstructed vision; (s) operating with obscured windows; (t) driving without lights; (u) failure to wear safety belts; and (v) following too close.

Appropriation: None.

Fiscal Note: Requested on January 18, 2005.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.